

LEBANESE COMPANY FOR FINANCIAL  
INVESTMENT SAL,

Plaintiff,

-V-

CORPORACION ELECTRICA NACIONAL

Defendant.

21 Civ. 9173 (JPC)

ORDER

JOHN P. CRONAN, United States District Judge:

On April 19, 2022, the Court granted Walfish & Fissell PLLC’s motion to withdraw as Plaintiff’s attorney. Dkt. 27. As part of that Order, the Court ordered Plaintiff to “appear with counsel by May 19, 2022, or the Court will dismiss this case without prejudice for failure to prosecute.” *Id.* at 3. Plaintiff has not appeared with new counsel since the Court’s April 19, 2022 Order. As noted in that Order, Plaintiff, as a corporation, cannot proceed *pro se* in this litigation. *See Jacobs v. Patent Enf’t Fund, Inc.*, 230 F.3d 565, 568 (2d Cir. 2000) (“[I]t is settled law that a corporation cannot generally appear in federal court except through its lawyer.”). And under Rule 41(b) of the Federal Rules of Civil Procedure, a district court may dismiss an action for failure to prosecute or comply with a court order. *See* Fed. R. Civ. P. 41(b); *see also Minnette v. Time Warner*, 997 F.2d 1023, 1027 (2d Cir. 1993) (“A district court may, *sua sponte*, dismiss an action . . . pursuant to Fed.R.Civ.P. 41(b).”); *Shannon v. Gen. Elec. Co.*, 186 F.3d 186, 193 (2d Cir. 1999) (listing factors courts should consider when deciding whether to dismiss under Rule 41(b)).


Here, the Court clearly warned Plaintiff that failure to obtain counsel would result in the Court dismissing the case. Despite this warning, and the Court giving Plaintiff six weeks to retain

counsel, Plaintiff has failed to do so. And “[b]ecause a plaintiff has a duty of due diligence to move its case forward, and [P]laintiff has failed to do so, as evidenced by its inability to retain counsel, prejudice to the defendants may be presumed.” *Bay Chevrolet, Inc. v. Gen. Motors Corp.*, No. 08 Civ. 233, 2011 WL 4628743, at \*2 (E.D.N.Y. Aug. 11, 2011), *report and recommendation adopted*, 2011 WL 4628713 (E.D.N.Y. Oct. 3, 2011). At the same time, dismissing the case with prejudice would be unduly harsh given the early stage of this litigation. Given all these considerations, the Court dismisses this case without prejudice. *See, e.g., Argentto Sys., Inc. v. Eatrthbound LLC*, No. 10 Civ. 6724 (CM), 2012 WL 2829583, at \*1 (S.D.N.Y. July 9, 2012) (dismissing case when corporate plaintiff did not retain counsel); *Capstone Equity LLC v. CPS Grp. Inc.*, No. 12 Civ. 4214 (KPF) (HBP), 2013 WL 3872081, at \*2-3 (S.D.N.Y. July 26, 2013) (same); *Preferred Grp. of Manhattan, Inc. v. Dooley*, No. 09 Civ. 4981 (VB) (PED), 2012 WL 6914024, at \*1 (S.D.N.Y. Dec. 27, 2012) (same), *report and recommendation adopted*, 2013 WL 214317 (S.D.N.Y. Jan. 18, 2013); *see also Jones v. Niagara Frontier Transp. Auth.*, 722 F.2d 20, 23 (2d Cir. 1983) (upholding order dismissing complaint unless plaintiff corporation obtained counsel within 45 days).

The Clerk of the Court is respectfully directed to close this case.

SO ORDERED.

Dated: June 2, 2022  
New York, New York

  
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JOHN P. CRONAN  
United States District Judge